

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MM Docket No. 00-148
FM Broadcast Stations.	)	RM-9939
(Quanah, Archer City, Converse, Flatonia,	)	RM-10198
Georgetown, Ingram, Keller, Knox City,	)	
Lakeway, Lago Vista, Llano, McQueeney,	)	
Nolanville, San Antonio, Seymour, Waco and	)	
Wellington, Texas, and Ardmore, Durant,	)	
Elk City, Healdton, Lawton and Purcell,	)	
Oklahoma.)	)	

**RECEIVED**

JUL 12 2004

Federal Communications Commission  
Office of Secretary

To: Office of the Secretary  
Attn: The Commission

**OPPOSITION TO "MOTION FOR EXTENSION OF TIME"**

Rawhide Radio, L.L.C., Capstar TX Limited Partnership, Clear Channel Broadcasting Licenses, Inc., and CCB Texas Licenses, L.P.<sup>1</sup> (collectively, the "Joint Parties"), by their counsel, hereby oppose the *Motion for Extension of Time* ("Motion") filed by On the Air, Inc. ("On the Air") in the above captioned proceeding. The Commission should deny On the Air's *Motion* because it was untimely filed, and because On the Air has made no showing of exceptional circumstances for its grant. Further, there is nothing pending in this proceeding, including the Joint Parties' *Application for Review*, that implicates the construction permit referenced in the *Motion*. In support hereof, the Joint Parties state as follows:

1. The Joint Parties filed an *Application for Review* with the Commission on June 21, 2004. On the Air filed its *Motion* on July 2, 2004. However, pursuant to Section 1.46(b) of the Commission's Rules any motion for extension of time "shall be filed at least 7 days before

<sup>1</sup> CCB Texas Licenses, L.P., a subsidiary of Clear Channel Communications, Inc., is added as a party to this proceeding because it is the new licensee of KAJA, San Antonio and KHFI-FM, Georgetown, Texas.

the filing date.” Under Section 1.115(d) of the Commission’s Rules, any opposition to the Joint Parties’ *Application for Review* had to be filed by July 6, 2004, which means that On the Air’s *Motion* was due by June 29, 2004, not July 2, 2004.

2. On the Air attempts to argue that the press of other Commission business and the massive volume of the Joint Parties’ *Application for Review*, “prevents counsel for On the Air from turning immediate and sufficient attention to analyzing and responding to the Application for Review.” *Motion* at p. 2. While Section 1.46(b) of the Commission’s Rules permits the Commission to consider late-filed motions for extension of time *in emergency situations*, On the Air did not provide any evidence that the *Motion* was filed late because of an emergency situation. Further, even assuming that the *Motion* was timely, On the Air makes no showing of exceptional circumstances for its grant. *See Julian, California*, 57 RR 2d 1325 (1985).

3. The volume of counsel’s workload and the size of the Joint Parties’ *Application for Review* are not emergency situations or exceptional circumstances. *See, e.g. Access to Telecommunications Equipment and Services by Persons With Disabilities*, 11 FCC Rcd 1814 (1996) (Commission grants extension because of government shutdown and weather emergency); *Puerto Rico Telephone Company Equal Access Conversion Schedule*, 4 FCC Rcd 7050 (1989) (Commission grants extension in light of the emergency situation in Puerto Rico created by Hurricane Hugo). Further, On the Air drastically overstates the volume of new material in this case. While the Joint Parties’ *Application for Review* contained 347 pages, 325 of these pages were a draft petition for rule making, which is the same as the Joint Parties’ alternative proposal that was originally filed as a counterproposal in this proceeding on October 10, 2000, with minor updates. The communities and allotments requested are exactly the same as those requested in the Joint Parties’ October 10, 2000 counterproposal, which On the Air had ample opportunity to review during the nearly four years it was on file. Therefore, because On

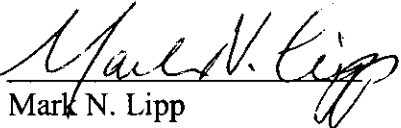
the Air's *Motion* was filed three days late and because it presents no evidence of an emergency situation or exceptional circumstances, the *Motion* must be denied.

4. In addition to being late-filed, the *Motion* is moot because there is nothing pending in this proceeding, including the Joint Parties' *Application for Review*, that will have any affect on On the Air's construction permit for Station KICM(FM). The Joint Parties recognize that On the Air's construction permit for KICM(FM) is subject to the final outcome of this proceeding. See BPH-20031023ACQ. However, KICM(FM) is licensed to Healdton, Oklahoma, and the Healdton portion of this proceeding was not challenged on reconsideration and is not a subject of the Joint Parties' *Application for Review*. Further, pursuant to the Commission's Rules, time has expired for any challenge to the Healdton portion of this proceeding either at the Commission or the Court of Appeals. See 47 C.F.R. § 1.115. Therefore, On the Air should ask the Commission for appropriate relief rather than file an opposition.

WHEREFORE, for the reasons stated, the Joint Parties respectfully request that the Commission deny On the Air's *Motion for Extension of Time*.

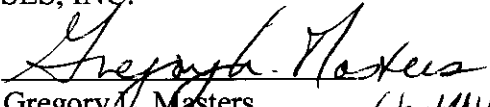
Respectfully submitted,

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## CERTIFICATE OF SERVICE

I, Lisa M. Holland, a Secretary in the law firm of Vinson & Elkins, do hereby certify that on this 12th day of July, 2004, I caused copies of the foregoing “**Opposition**” to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

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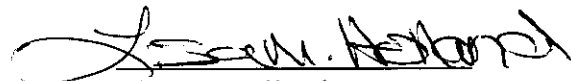
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\* Hand Delivered